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Case No. 2:16-cv-2907-SHM-tmp

(Hon. Judge Samuel H. Mays)

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**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE CIVIL
RIGHTS ACT OF 1871, 42 U.S.C. §
1983, AND TENNESSEE COMMON
LAW**

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**JURY TRIAL DEMANDED
PURSUANT TO FED. R. CIV. PRO.
38(a) & (b)**

)

MELVIN INGRAM et al., on behalf of
themselves and all similarly situated
persons,

PLAINTIFFS,

v.

BILL OLDHAM, in his individual capacity
and in his official capacity as the Sheriff of
Shelby County, Tennessee; ROBERT
MOORE, in his individual capacity and in
his official capacity as the Jail Director of
the Shelby County, Tennessee;
CHARLENE McGHEE, in her individual
capacity and in her official capacity as the
of Assistant Chief Jail Security of Shelby
County, Tennessee; DEBRA HAMMONS,
in her individual capacity and in her
official capacity as the Assistant Chief of
Jail Programs of Shelby County,
Tennessee; SHELBY COUNTY,
TENNESSEE, a Tennessee municipality;
and TYLER TECHNOLOGIES, INC., a
foreign corporation,

DEFENDANTS.

Case No. 2:17-cv-02795-SHM-tmp

(Hon. Judge Samuel H. Mays)

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE CIVIL
RIGHTS ACT OF 1871, 42 U.S.C. §
1983, AND TENNESSEE COMMON
LAW**

**JURY TRIAL DEMANDED
PURSUANT TO FED. R. CIV. PRO.
38(a) & (b)**

**PLAINTIFFS' RULE 23(g)(3) MOTION FOR APPOINTMENT
OF INTERIM CLASS COUNSEL AND TO DISMISS WITHOUT PREJUDICE OR,
ALTERNATIVELY, TO STAY THE RECENTLY FILED AS *INGRAM* CLASS ACTION
COMPLAINT**

Plaintiffs Scott Turnage, Cortez D. Brown, Deontae Tate, Jeremy Melton, Issacca Powell, Keith Burgess and Terrence Drain (hereinafter collectively referred to as “Plaintiffs”), by and through their undersigned counsel of record, and, pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure, submit their Motion for Appointment of Frank L. Watson, III, William F. Burns, and William E. Routt of the law firm of WATSON BURNS, PLLC (“Watson Burns”), and Michael G. McLaren, William E. Cochran, Jr., and Brice M. Timmons of BLACK McLAREN JONES RYLAND & GRIFFEE PC (“Black McLaren”) as Interim Class Counsel and to Dismiss Without Prejudice or, alternatively, to Stay the Recently Filed *Ingram* Class Action Complaint and would state as follows:

1. On November 11, 2016, Plaintiff Issacca Powell filed a putative class action (hereinafter the “*Powell* Class Action”), asserting Section 1983 claims on behalf of a class of individuals who were incarcerated and unlawfully detained at the Shelby County Jail. (Dkt No. 1). Thereafter, attorneys at the Black McLaren firm filed notices of appearance to serve as lead counsel in the *Powell* Action. (Dkt Nos. 26 & 27).

2. On January 9, 2017, Plaintiffs Cortez D. Brown, Deontae Tate, and Jeremy Melton filed a putative Class Action Complaint against Defendants Bill Oldham, Robert Moore, Charlene McGhee, Debra Hammons (in their individual and official capacities), Shelby County and Tyler Technologies, Inc. (hereinafter the “*Brown* Action”). The *Brown* Class Action also alleged Section 1983 violations arising out of unlawful detentions at the Shelby County Jail, with the Watson Burns firm serving as lead counsel for the Plaintiffs.

3. By Order dated March 13, 2017, this Court consolidated the *Powell* and *Brown* Class Actions, ordered that all Plaintiffs file one consolidated class action complaint and instructed the parties to abide by the Court’s Scheduling Order that has been previously entered on February 22, 2017 in the *Powell* Class Action, which bifurcated class discovery from merits discovery. (Dkt. No.42).

4. Thereafter the Watson Burns and Black McLaren firms reached a work and fee sharing arrangement and filed Plaintiffs' consolidated Second Amended Complaint. (Dkt. No. 52). They have also filed Responses to Defendants' Motions to Dismiss (Dkt. Nos. 61 & 62) and are currently conducting significant written class discovery of Defendants. (Dkt. No. 73). Lastly, Plaintiffs – the proposed class representatives – have responded to Defendants' written discovery requests related to class discovery. (Dkt No. 78).

5. On October 31, 2017, Plaintiff Melvin Ingram and twenty-nine other persons filed a putative class action complaint (the "*Ingram* Class Complaint") against the identical Defendants in this case. (*See*, Case No. 2:17-cv-02795).

6. Indeed, with the exception of the allegations pertaining to the individual plaintiffs named therein, the *Ingram* Class Complaint is identical to the Second Amended Class Complaint in this matter. The attorneys listed as counsel in the *Ingram* Class Complaint merely copied word for word the factual allegations, the legal claims, the class allegations (including the class definitions) and the monetary damage set forth in the Second Amended Complaint. In short, the *Ingram* Class Complaint is a copycat case that is unnecessary, particularly since this action is well underway.

7. As a result, given that there are now two competing putative Class Action suits over the identical subject matter, Plaintiffs submit that the Watson Burns and Black McLaren law firms should now be appointed as Interim Class Counsel under Rule 23(g)(3) so that this action can be efficiently prosecuted for the benefit of the Class, without the intrusion of thirty additional named plaintiffs and further delays that will come with yet another putative class action complaint. Further, because the *Powell* Class Action was the first class action to be filed and is now well underway, the *Ingram* Class Complaint should be dismissed without prejudice or, at least stayed during the pendency of this action, pursuant to the first to file doctrine.

Plaintiffs rely upon their contemporaneously filed Memorandum of Law and its Exhibits attached thereto in support.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Scott Turnage, Cortez D. Brown, Deontae Tate, Jeremy Melton, Issacca Powell, Keith Burgess and Terrence Drain, by and through their undersigned counsel of record, and, pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure, move this Honorable Court to appoint Frank L. Watson, III William F. Burns, and William E. Routt of the law firm of WATSON BURNS, PLLC and Michael G. McLaren, William E. Cochran, Jr., and Brice M. Timmons of BLACK McLAREN JONES RYLAND & GRIFFEE PC as Interim Class Counsel and to Dismiss or, alternatively, to Stay the Recently Filed *Ingram* Class Action Complaint.

Respectfully submitted,

/s/ Michael G. McLaren

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LOCAL RULE 7.2(a)(1)(B) CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), on November 20, 2017, William E. Routt, counsel for Plaintiffs, consulted by telephone with Daniel Lofton, counsel for plaintiffs in the action styled *Melvin Ingram et al. v. Bill Oldham, et al. capacity*, 2:17-cv-02795-SHM-tmp. Mr. Lofton indicated that he will oppose the instant Motion.

On November 15, 2017, Frank L. Watson, III, counsel for Plaintiffs, conferred by telephone with Robert E. Craddock, counsel to Defendants Bill Oldham, Robert Moore, Charlene McGhee, Debra Hammons and Shelby County, and by telephone with Bradley E. Trammel, counsel to Defendant Tyler Technologies, Inc., concerning the instant Motion. On November 21, 2017, Mr. Watson further communicated with these attorneys via email.

The Defendants have indicated: (i) that they take no position as to Motion for Appointment of Interim Class Counsel under Rule 23(g)(3), (ii) that they agree that the *Ingram* Class Complaint should be dismissed without prejudice and (ii) that they oppose a stay of the *Ingram* Class Complaint.

/s/ Frank L. Watson, III

Frank L. Watson, III

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that the above and foregoing was filed on November 21, 2017, using the CM/ECF system with the above-captioned court, with notice of case activity to be generated and sent electronically by the Clerk of said court to the following parties and/or served via U.S. Mail postage pre-paid and by email:

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/s/ Frank L. Watson, III
Frank L. Watson, III